IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4671 OF 2004

Khalid Maulanasaheb Bepari ... Applicant

versus

State of Maharashtra ... Respondent

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Mr. P.R. Arjunwadkar, for the Applicant.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

1st November 2004

P.C.:

. Heard Counsel for the parties. Perused the record. The Applicant is alleged to be involved in offence punishable under section 394 read with section 34 of the Indian Penal Code. The prosecution case is that on 16th July 2004 at about 2 p.m., the complainant and other prosecution witnesses were going to Gangapur for Dattatray Darshan in a Maruti van. On their way to Gangapur, when their car came near Dudhni, one

Tata Sumo car came towards their vehicle and forced their vehicle to be stopped. Thereafter, the persons travelling in the Tata Sumo car robbed the complainant and other persons and took away cash and gold ornaments worth Rs. 29,000/- under the tip of sword and knife. Indeed, during the course of investigation, the prosecution claims to have recovered sword from the Applicant and, even the Tata Sumo car has been recovered at the instance of the co-accused. The accused were shown to the complainant and the prosecution witnesses in the police station, where they claimed to have identified the Applicant and the co-accused. Admittedly, no identification parade has been held as was obligatory. Suffice it to observe that this is fatal. As identification of the Applicant by the prosecution witnesses in the police station can be of no avail to resist the bail application preferred by the Applicant, the Applicant deserves to be enlarged on bail on strict conditions as under :

(a) The Applicant is enlarged on bail in connection with CR.No. 67/2004 registered with Akkalkot South Police Station on executing personal bond in the

sum of Rs.25,000/- (Rupees Twenty five thousand only) with two local sureties in the like amount.

(b) The Applicant shall not enter the jurisdiction of Akkalkot South Police Station during the pendency of trial, except for attending Court proceedings.

(c) The Applicant shall inform his place of residence to the investigating officer within one week from the date of his release. Besides, the Applicant shall report to the nearest Police Station once a week on Saturday between 10 a.m. to 1 p.m.

(d) The Applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(e) The Applicant shall co-operate the trial Court for early disposal of the case. If the trial Court is of the opinion that the Applicant is responsible

for delay in disposal of the case, that fact be recorded in roznama and can be a ground for cancellation of bail.

(f) A copy of this order be forwarded to the Secretary, Home Department, to find out reasons why the investigation has been conducted in such slip-shod maner in respect of such a serious offence and to take appropriate remedial action, as may be advised.

. Application disposed of on the above terms.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)